

**BEFORE THE HON'BLE III JUNIOR CIVIL JUDGE COURT AT
ONGOLE, PRAKASAM DISTRICT**

C. C. No. 220 of 2018

BETWEEN:

1. Sub-Inspector of Police, Women Police Station,
Ongole, Prakasam District Andhra Pradesh.

... Complainant

2. Pamarati Anuradha, aged 42 years,
D/O. Apparao Kovi
R/O. Flat No. 106, Lakshmi Residency,
2nd Line, Samatha Nagar,
Ongole, Prakasam District Andhra Pradesh.

... Defacto Complainant

AND

1. Pamarati Sandeep Bhavan, aged 40 years,
2. Pamarathi Veerabhadra Rao, aged 70 years,
3. Pamarathi Saila Kumari, aged 62 years,

All R/O. D.No. 11-968,
Aravinda Nagar, Anantapur,
Andhra Pradesh. PIN: 515001

... Accused Nos.1-3

**MEMO OF WRITTEN ARGUMENTS FILED U/S 314(1) OF CR.P.C.
ON BEHALF OF ACCUSED, IN THE INSTANT CAUSE TITLE CASE**

In addition to the oral arguments addressed today before this Hon'ble Court, the Accused Nos.1-3 humbly submit their written arguments as follows:-

1. That the averments made in the Prosecution Documents along with the Evidence and Deposition of the Prosecution witnesses in the instant case may kindly be read as part and parcel of these arguments.
2. That the only undisputed facts are Marriage between the Defacto Complainant and Accused No.1 on 06-May-2009, venue of marriage that is Tirupati, and both belonging to Hindu Religion.
3. That the Accused Nos.1-3 submit that the Defacto Complainant hereinabove has filed a FIR vide Crime No. 33/2017 in the Women Police Station, Ongole dt: 07-Apr-2017 for the offences u/s 498A Indian Penal Code 1860 (hereinafter 'IPC') and Sections 3 and 4 of Dowry Prohibition Act 1961 (hereinafter 'DP Act') which resulted in a Charge sheet being filed into this Hon'ble Court which was registered as a Calendar Case vide C.C. No. 220/2018 which is pending adjudication and is currently in the Stage of Arguments. The Defacto Complainant herein is the Prosecution Witness – 1/PW-1 (LW-1 as per list of Prosecution witnesses). The mother of the Defacto Complainant is the Prosecution

Witness-2/ PW-1 (LW-3 as per list of Prosecution witnesses). The IO was examined as the Prosecution Witness – 3/ PW-3 (LW-8 as per list of Prosecution witnesses in Charge sheet). The owner of the flat at Hyderabad rented by the parties testified as the Prosecution Witness – 3/ PW-3 (LW-5 as per list of Prosecution witnesses). The Prosecution has given up on the remaining listed Prosecution witnesses in the Charge sheet.

4. That, it is pertinent to highlight here that the Investigating Office (hereinafter IO) on the case filed a Delete Memo seeking the removal of the Dowry related sections and the Accused Nos.2-3 from the Charge sheet giving valid legal reasons. Subsequently, the Defacto Complainant, was issued notice by the Hon'ble Court asking if she has any objection to the removal of Dowry related sections and the Accused Nos.2-3 from the Charge sheet, to which the Defacto Complainant filed an affidavit in protest of the Delete Memo, stating that the removal of the Dowry related sections and the Accused Nos.2-3 from the Charge sheet happened because of the collusion between IO and the Accused indicating a baseless allegation of corruption by the IO. For this particular reason, the Sections 3 and 4 of DP Act returned to the instant case and the Accused Nos.2-3 are added back to this case. This act of the Defacto Complainant is critical to the case as explained in the paragraphs below. It is submitted that the Accused No.1 was not given a copy of the protest petition filed by the Defacto Complainant.
5. That, the Accused Nos.1-3 filed a detailed petition u/s 239 Code of Criminal Procedure 1973 (hereinafter 'Cr.P.C.') on 02-Apr-2019, seeking discharge of the Accused Nos.2-3 from this motivated litigation launched by the Defacto Complainant and pointed out more than 8 solid legal grounds, basis which prosecution is said to be not in a position to proceed with the trial. Unfortunately, this Hon'ble Court did not consider the legal grounds raised in the said petition, in the correct legal perspective and ultimately dismissed the Discharge Petition on 02-Mar-2020. Clearly, there is not material on record of this Hon'ble Court with necessary ingredients to proceed with trial for offences under section 498a IPC and for sections 3 and 4 of DP Act. The Accused didn't get justice at section 239 Cr.P.C. Stage.
6. That, the Defacto Complainant failed to bring even a single shred of supporting evidence corroborating the allegations made in her complaint and ultimately, has admitted to a majority of facts, contradictory to her own stand during the Cross-Examination stage. This establishes that the instant case was instituted against the Accused Nos.1-3, only to harass

them and cause irreparable damage to their reputation and integrity in the public eye of the society. The Defacto Complainant made bald claims without adducing any evidence or proof before this Hon'ble Court. No specific and ascertainable allegations are made by the Defacto Complainant against the Accused Nos.1-3. Except for the Marriage photographs and Marriage Invitation Card, no other evidence was marked by the Prosecution as exhibits in this case. It is submitted that these photos, invitation card and marriage certificate only prove that there is a valid marriage between the parties as per Hindu Marriage Act and it was registered. It is the fundamental principle of jurisprudence that whoever claims or alleges something, they have the burden of proof on them. Furthermore, all the Prosecution witnesses admitted that there is no dowry transaction at all between the parties which is contrary to the stand of Defacto Complainant in her complaint and the witness statements of PW-1 (Defacto Complainant) and PW-2 u/s 161(1) Cr.P.C. It is obvious that the Prosecution witnesses feared that if they proceed with dowry allegations, it is certain that they cannot prove such allegation and it is also a possibility that they will be prosecuted for the offence of giving dowry, which is punishable u/s 3 of Dowry Prohibition Act 1961. Probably, upon the advice of learned Assistant Public Prosecutor (hereinafter 'APP'), the Prosecution witnesses decided to refuse the allegations of dowry to save themselves from possible criminal prosecution. There is no answer with anyone, why alleged dowry giving criminals are listed as witnesses and not as co-accused. It is preposterous to say that by allegedly giving dowry, the parents of the Defacto Complainant become innocent victims but not dowry giving criminals punishable u/s 3 of DP Act. It is submitted that the Accused No.1 has filed a Writ Petition No. 20594 of 2021 before the Hon'ble High Court of Andhra Pradesh and Amaravati, seeking declaration whether dowry giving is a crime in the State of Andhra Pradesh or not. It is pending for listing for over 18 months and the Union of India was served notice and has not yet filed Counter to the said Writ Petition.

7. That, the Defacto Complainant is also not truthful with her residential address before this Hon'ble Court as her address kept changing during the Course of the Trial of this case from 2017 onwards. The Defacto Complainant failed to bring to the notice of this Hon'ble Court about changes to her address. This demonstrates the tendency of the Defacto Complainant to conceal important aspects.

8. That, the Defacto Complainant used the surname of the Accused No.1 in the instant proceedings, only to mislead this Hon'ble Court that it is really her legal surname but it is admitted by the Defacto Complainant that not a single government issued document including her marriage certificate bears her name as Pamarati Anuradha. The Defacto Complainant admitted to this fact in her deposition. It is noteworthy that eventually the Defacto Complainant admitted that she has not produced any evidence, regarding change of her surname from Kovi Anuradha to Pamarati Anuradha by following the due legal process by publication in AP State Extra-Ordinary Gazette. The PW-3/the investigating officer also admitted during this Cross examination that as per Marriage certificate also, the full name of the Defacto Complainant is Anuradha Kovi only and not Pamarati Anuradha, indicating clear lapse of duty on the part of the IO. This showcases the twisted mindset of the Defacto Complainant to go to any extent, just to inflict pain and injury to the Accused Nos.1-3, since she is a habitual and compulsive liar and Narcissistic person by her nature, as observed and established in the following written arguments, without any fear of law and consequences of giving false averments before a Court of Law (perjury).
9. That, the Defacto Complainant hereinabove has filed a petition under the Protection of Women from Domestic Violence Act 2005, hereafter called as 'DV Act' on 10-Jul-2017, seeking various reliefs. This petition got registered as D.V.C. No. 14 of 2017 and is disposed of by this Hon'ble Court for Order dt: 15-Feb-2023 by partly allowed the petition, based on wrong appreciation of the evidence on record of that case. The Accused No.1 has filed an Appeal u/s 29 of the DV Act on 17-03-2023, before the Hon'ble District and Sessions Court, Ongole, Prakasam district. The CFR. No. for said appeal is 450 of 2023.
10. That, the Defacto Complainant not just concealed her first marriage from the IO and alleged divorce from her first husband in her complaint which is squarely based on marriage, but also concealed many material alleged facts such as Home loans issued by SBI Bank, Near RTC Bus Stand branch, the alleged sale deed of flats, her name on her Membership card of Telugu Movie Dubbing Artists Union, which was very well mentioned in the DV case D.V.C. No. 14 of 2017. Even the PW-4 admitted that the Defacto Complainant was working as dubbing artist at Hyderabad. This shows that the Defacto Complainant is capable of selectively making baseless accusations against Accused Nos.1-3, as per her choice of litigation. The Concealment of first marriage is crucial in this case, because in

the absence of proof for the divorce from her first husband, the Defacto Complainant is liable to not just lose this case but also liable for criminal prosecution for cheating and bigamy, offences which are punishable under IPC, as elaborated in subsequent paragraphs below.

LACK OF SHARED HOUSEHOLD BETWEEN THE DEFECTO COMPLAINANT AND THE ACCUSED NOS.2-3:

11. That, the Defacto Complainant failed to prove her case of Cruelty, by admitting that the Defacto Complainant never cohabited with Accused Nos.2-3 during her Deposition in this case. It is evident from the plain reading of the Chief Examination Affidavit and the deposition of PW-1, there was no shared household whatsoever between the Defacto Complainant and the Accused Nos.2-3 at all, since they never lived under a common roof either at Pune or at Hyderabad after the marriage between the Defacto Complainant and the Accused No.1 was performed at Tirupati. The PW-1 also admitted that she never visited Anantapur and that the Accused Nos.2-3 never lived with her at Hyderabad or at Ongole. The Accused Nos.2-3 were maliciously dragged into this criminal litigation also by the Defacto Complainant, just like the above DV case, with a sole intention to harass the elderly Accused Nos.2-3 by implicating them in this motivated litigation at Ongole, which is over 350 KMs away from their native/permanent residence at Anantapur. The Defacto Complainant is liable for Criminal defamation proceedings for her baseless and defamatory allegations against Accused Nos.2-3.

12. That, further the burden of proof would be on the Defacto Complainant to prove her case of Cruelty against the Accused Nos.1-3. On perusal of the prosecution document or the Chief Examination Statement of the Defacto Complainant recorded by the APP, it is clear that no specific and ascertainable allegations are made against the Accused Nos.1-3. As mentioned above, the Defacto Complainant has to prove her case beyond reasonable doubt that the Accused Nos.1-3 have inflicted Cruelty on her, the burden of proof as per sections 101¹ and 102² of Evidence Act 1872 lies on the shoulders of the Defacto Complainant and the Prosecution team. When such is the truth, mere replicating vague allegations in the

¹ Evidence Act 1872 § 101 ‘**Burden of proof.** — Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist. When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.’

² Evidence Act 1872 § 102. ‘**On whom burden of proof lies.** — The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.’

Chief Examination Statement does not stand the test of proving the allegations of Cruelty against the Accused Nos.1-3 especially where there is no corroboration from an independent witness. It is to be noted that the acts defined u/s 498A IPC are quite severe and different from normal wear and tear of the family life. On analysis of the entire deposition of the Defacto Complainant/PW-1, it is evident that the Defacto Complainant has miserably failed not only to make specific allegations as necessary to demonstrate that she suffered Cruelty but also failed in proving the same before this Hon'ble Court during Examination.

13. That such vexatious litigation launched against the Accused Nos.2-3 by the Defacto Complainant must be held to be vengeful and illegal and terminated at the threshold itself and the elderly Accused Nos.2-3 must be duly compensated for the trauma and defamation caused to them by the Defacto Complainant. This clearly amounts to misuse of social welfare laws such as section 498A IPC and DV Act by the Defacto Complainant due to her oblique motives and goes to show that the conduct of the Defacto Complainant is against the well intentions of the Legislature in incorporating the section 498A IPC into the statute book. The Defacto Complainant is not a victim of Cruelty at all, but herself an abuser of benevolent Laws of our great Nation. Therefore, it is submitted that the Defacto Complainant is liable for defamation proceedings u/s 500 I.P.C. along with her mother, who is the second prosecution witness PW-2 in this case. The Accused Nos.1-3 rely on the landmark case law from the Apex Court *State of Haryana Vs Ch Bhajan Lal*³ reported in [1992 AIR SC 604, 1992 SCC CRI 1 426] decided on 21-Nov-1990. In Para 102 of the judgment, the Hon'ble Apex Court gave an illustrative list of categories of cases where a criminal cases may be quashed. The third and seventh categories apply to this aspect of this case.

“(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(7) Where a criminal proceeding is manifestly attended with mala fide and/ or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

³ Judgment dated 21 November, 1990, in CRR-2424-2002

**VALIDITY OF THE MARITAL RELATIONSHIP BETWEEN DEFAC TO
COMPLAINANT AND ACCUSED NO.1:**

14. That, the Defacto Complainant admitted in the DV case, that she was earlier married and allegedly obtained divorce from her first husband. She admitted that her first marriage with one Mr. Ravi Kiran was performed in the year 2006 at Chirala and, in just one year, in 2007 itself, she got divorce from the said first husband. The Defacto Complainant failed to remember exact dates of her first marriage and the date of divorce from her first husband. It is evident from Section 14 of Hindu Marriage Act 1955⁴ that, “***No petition for divorce to be presented within one year of marriage***”. It is not the case of the Defacto Complainant that she took assistance from the proviso to above Section 14 which allows for filing divorce within 1 year but under ‘***exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent***’. Otherwise, it is impossible by law, for a person like the Defacto Complainant who got married in 2006, file for her divorce in 2007 itself and the wonder of wonders is that, she also got it allowed by this Hon’ble Court at Ongole. It is a matter of common knowledge that divorce matters do not get adjudicated by this Hon’ble Court but by the designated Hon’ble Family Court at Ongole in Prakasam District and no other Court is designated to taken and try divorce matters in 2007, when the Defacto Complainant claimed to have got divorce. It is clearly visible as daylight sky that the Defacto Complainant has lied under Oath before this Hon’ble Court about her divorce petition being allowed in the same year it was filed, 2017. The Defacto Complainant is therefore liable for the offence of Perjury u/s 340 Cr.P.C.⁵
15. That, the Defacto Complainant interestingly does not remember the surname of her first husband. PW-1’s deposition in DV case continues as follows: “***I do not remember who applied for mutual divorce but the same was granted by Ongole Court. At the time, my father look after that I do not remember whether I filed a Divorce document before this Court***”. When the Defacto Complainant was questioned during the Cross Examination, if she declared about her alleged divorcee status in the Marriage Application Form (Form-

⁴ Sec 14 of Hindu Marriage Act 1955, 14. ‘***No petition for divorce to be presented within one year of marriage***’

⁵ Sec 340 of Code of Criminal Procedure 1973, **340. Procedure in cases mentioned in section 195.**—(1) When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of Justice that an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court...

B), filed to register her marriage with Accused No.1, she deposed as follows: “*The Registered document shown by the Accused No.1 to the witness and in the 12th column, date of decree of first divorce was not entered. I do not remember whether I read the contents of marriage registration form and she only signed it.*”. It is a judicially noticeable fact that if this Master’s graduate can be as evasive as this, indicating that the Defacto Complainant wants to avoid answering any questions about her first marriage and more importantly, about her divorce from her first husband, an adverse inference has to be drawn against the Defacto Complaint as per section 114(g) of Evidence Act, as to the Defacto Complainant never obtained legal divorce from her first husband from a Competent Family Court. The Defacto Complainant admitted that she has not produced any divorce decree into this Hon’ble Court, establishing divorce from her first husband Ravi Kiran. Despite many suggestions given to Defacto Complainant, if she can bring a copy of the Divorce decree to this Hon’ble Court of next date of hearing, the Defacto Complainant categorically deposed, she cannot do it, for reasons best known to herself. It can be presumed by this Hon’ble Court that, there is no such divorce decree granted to the Defacto Complainant at all. This clearly denotes that the Defacto Complainant has committed the offence of bigamy punishable u/s 494⁶ and 495 I.P.C.⁷. This Hon’ble Court is competent and must record this observation which is a conclusion arrived at after the Defacto Complainant completed her deposition under Oath.

16. That that Defacto Complainant failed miserably to produce any documentary evidence in support of her admission about her first marriage and subsequent divorce from her first husband, prior to getting married with Accused No.1. Except for the *ipse dixit* statements of the Defacto Complainant in the Examination-in-Chief of PW-1 and the subsequent deposition of PW-1 during the Examination Stage, the Defacto Complainant categorically stated that she does not have her Divorce Decree in her possession nor can she bring a copy of the Divorce Order/Judgment passed by the Hon’ble Courts at Ongole. This implicitly

⁶ Sec 494 of Indian Penal Code 1860, **494. Marrying again during lifetime of husband or wife.**—Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

⁷ Sec 495 of Indian Penal Code 1860, **495. Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.**—Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

indicates that either she does not have her Divorce Decree in her possession or she had obtained divorce from her first husband but after marriage with the Accused No.1.

17. That the marriage certificate of the Defacto Complainant and the Accused No.1 (Hindu Marriage No. 95 of 2009, Registered on 14-May-2009 before Registrar of Marriages, Ongole) clearly indicates the name of the Defacto Complainant as '**Anuradha Kovi**'. The Defacto Complainant also failed to indicate her Legal Status as 'Divorcee' in her Form-B (the Marriage Registration/Application Form). The Defacto Complainant did not enter the 'Date of Divorce Decree' in Column 13 and did not mention 'if 1 year elapsed from the Date of Divorce Decree' in the next Column. This clearly indicates the intention and criminal action of the Defacto Complainant to hide her first marriage from the Accused No.1. This clearly shows that the marriage of the Defacto Complainant with the Accused No.1 is **null and void ab initio** as per section 11⁸ read with clause (i) of section 5⁹ of Hindu Marriage Act 1955. It is submitted that as per the Form-B (the Marriage Registration/Application Form) filed by the parties before Sub-Registrar Ongole, indicates that the Defacto Complainant with the Accused No.1 did not disclose about her divorce from her first husband thereby making the marriage between the Defacto Complainant with the Accused No.1 a **null and void ab initio**.

18. That by the plain reading of the Deposition of PW-1 sufficiently establishes that the PW-1 does not even remember what is the surname/full name of her first husband is; whether her divorce was contested or mutual consented; or for that matter, when was the Divorce decree passed. These evasive answers by the PW-1 must elicit adverse inference from this Hon'ble Court that the Defacto Complainant never got her first marriage terminated via a valid legal divorce proceedings before a Competent Court at Ongole or elsewhere. This implies that the Defacto Complainant married Accused No.1 before divorcing her first husband which establishes that Accused No.1 is not the husband of the Defacto Complainant as per the Provisions of Hindu Marriage Act 1955 and the Defacto Complainant has committed an offence of Bigamy which is punishable u/s 494 and 495 of Indian Penal Code 1860. The

⁸ Hindu Marriage Act, 1955 § 11 Void marriages.—Any marriage solemnised after the commencement of this Act shall be null and void and may, on a petition presented by either party thereto 2[against the other party], be so declared by a decree of nullity if it contravenes any one of the conditions specified in clauses (i), (iv) and (v) of section 5.

⁹ Hindu Marriage Act, 1955 § 5 Conditions for a Hindu marriage.—A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled, namely:— (i) neither party has a spouse living at the time of the marriage;

Accused Nos.1-3 rely on the landmark decision *S.P Chengalvaraya Naidu Vs Jagannath [1994 AIR SC 853 = 1994 SCC 1 1]*¹⁰ decided by Division bench of the Hon'ble Apex Court. Annexed same via a separate memo, for kind consideration of this Hon'ble Court. Relevant paras 5 and 6 are extracted hereinbelow for convenience of this Hon'ble Court.

“5. The High Court, in our view, fell into patent error. The short question before the High Court was whether in the facts and circumstances of this case, Jagannath obtained the preliminary decree by playing fraud on the court. The High Court, however, went haywire and made observations which are wholly perverse. We do not agree with the High Court that “there is no legal duty cast upon the plaintiff to come to court with a true case and prove it by true evidence”. The principle of “finality of litigation” cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the court is being abused. Property-grabbers, tax-evaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal-gains indefinitely. We have no hesitation to say that a person, who’s case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation.

6. The facts of the present case leave no manner of doubt that Jagannath obtained the preliminary decree by playing fraud on the court. A fraud is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another’s loss. It is a cheating intended to get an advantage. Jagannath was working as a clerk with Chunilal Sowcar. He purchased the property in the court auction on behalf of Chunilal Sowcar. He had, on his own volition, executed the registered release deed (Ex. B-15) in favour of Chunilal Sowcar regarding the property in dispute. He knew that the appellants had paid the total decretal amount to his master Chunilal Sowcar. Without disclosing all these facts, he filed the suit for the partition of the property on the ground that he had purchased the property on his own behalf and not on behalf of Chunilal Sowcar. Non-production and even non-mentioning of the release deed at the trial is tantamount to playing fraud on the court. We do not agree with the observations of the High Court that the appellants- defendants could have easily produced the certified registered copy of Ex. B-15 and non-suited the plaintiff. A litigant, who approaches the court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side then he would be guilty of playing fraud on the court as well as on the opposite party.

(Emphasis provided)

The Defacto Complainant has withheld a vital document (her divorce judgment and decree) from the Police IO and this Hon'ble Court in order to gain advantage on the other side and therefore this non-disclosure of all the necessary facts makes the Defacto Complainant guilty of playing fraud on the court as well as on the opposite party.

19. That, it is pertinent to note here that in the compliant and the FIR registered u/s 154(1) Cr.P.C., the witness statement of the Defacto Complainant and her parents u/s 161(1)

¹⁰ Judgment dated 27 Oct 1993 in Civil Appeal No. 994 of 1972

Cr.P.C., the Charge sheet filed u/s 173(2) Cr.P.C. by the IO, or the Examination-in-Chief of the Defacto Complainant/PW-1 recorded by the Learned APP before this Hon'ble Court, none of these documents record the material fact that the Defacto Complainant was earlier married and divorced which is a crucial piece of fact concealed by the Defacto Complainant in a case u/s 498a IPC where marriage is the central aspect. The only plausible reason for this willful concealment by the Defacto Complainant is that she does not want the truth to be exposed that, she has not obtained divorce from her first husband and hence she has conveniently hidden the truth of her first marriage and divorce in the criminal complaint to the Ongole Women Police, but she disclosed her first marriage and divorce in the DV case, which was filed 3 months after the criminal case. This is clearly perjury against the Police Department punishable u/s 177, 182 of IPC which are covered u/s 195(1)(a)(i) of Cr.P.C. but it does not seem that Police have initiated any criminal action against the Default Complainant and her parents. This conduct of the Defacto Complainant is covered under section 114(g) of Evidence Act.

20. It is declared by the Hon'ble Apex Court in a catena of case laws that, not even Supreme Court has power to impound a passport of a citizen. But it is submitted that it is on record of this Hon'ble Court that the passport of the Accused No.1 is held in the Custody of this Hon'ble Court from July 2017 and due to this illegal confiscation, the Accused No.1 has lost a lot of opportunities to travel abroad for employment or pleasure and this adversely affected the freedom of the Accused No.1 enshrined under Article 21 of the Constitution.

21. That it is an act of Perjury by the Defacto Complainant to commit fraud upon this Hon'ble Court in an attempt to get Orders favorable to her. Therefore, it is submitted that the Defacto Complainant is liable for perjury proceedings u/s 340 Cr.P.C. along with the second witness PW-2, who is the mother of the Defacto Complainant, who despite in the knowledge of no divorce between her daughter and her first son-in-law, colluded with PW-1 and given false evidence and therefore perjured themselves before this Hon'ble Court.

NO EVIDENCE TO SUBSTANTIATE THE OMNIBUS ALLEGATIONS OF 'PHYSICAL CRUELTY' OF THE DEFACTO COMPLAINANT BY ACCUSED NOS.1-3 U/S 498A IPC:

22. That, according to the Defacto Complainant herself as per her deposition of PW-1, the Accused No.1 was in Bengaluru from June 2013 and has never come in physical contact of the Defacto Complainant until the institution of this Cruelty Case in April 2017.

Therefore, there is no occasion for Accused No.1 to have committed any physical abuse of the Defacto Complainant during this period. The Defacto Complainant miserably failed to adduce any documentary evidence in support of the baseless allegations of physical cruelty. All the omnibus allegations do not have any specific details as to when, where, who and how such abuse was committed against the Defacto Complainant.

23. That the Defacto Complainant has also attempted to do some improvement upon her allegation in her deposition. Nowhere in the entire case docket did the Defacto Complainant mention that Accused No.1 beat/hit her in her private parts but during Cross Examination, the Defacto Complainant, averred that Accused No.1 beat/hit her in her private parts, for the first time. The Defacto Complainant deposed that she has not filed any medical report before this Hon'ble Court to show that her improvement of Accused No.1 beating her in her private parts. This showcases that the Defacto Complainant is very much capable of material improvements, if opportunity presents itself, and she weaves new narrative to suit herself.
24. That the Defacto Complainant failed to support her own statement in her Examination-in-Chief and during her Cross Examination. The Defacto Complainant admitted that there are no specific instances of Physical Cruelty, whatsoever that she can support and corroborate with credible evidence.
25. Similarly, there are no specific allegations against Accused Nos.2-3 at all with respect to Physical Cruelty against the Defacto Complainant.
26. That once the elderly Accused Nos.2-3 are held to be not living with the Defacto Complainant under common roof, they can no longer be held liable for the offence of section 498A IPC in this case. They had to suffer for over 5 years of defamation, humiliation, undue travel hassles and expenses, due to their malicious implication into this false Criminal case by the Defacto Complainant. This is nothing but Character assassination of Accused No.1 and his public servant elderly parents.
27. That, the Defacto Complainant made bald allegations on the Accused Nos.2-3 stating that both of the elderly Accused Nos.1-3 instigated their son Accused No.1 to mistreat the Defacto Complainant without specifying any events of incidents. There is no weight to such blanket and omnibus statements since they are just ipse dixit statement, which tantamount to just self-serving statements without any legal basis. Considering the

deposition of the Defacto Complainant that she had no occasion to meet or speak with the elderly Accused Nos.2-3 till the date of seeing them in this Hon'ble Court in this instant Criminal case, it is evident that the Accused Nos.2-3 have no occasion to commit any verbal or emotional cruelty u/s 498a IPC directly upon the Defacto Complainant. The Defacto Complainant has not mentioned any specific details in her examination-in-chief or in her deposition as to how have the Accused Nos.2-3 committed verbal or emotional cruelty upon her.

28. That, the Defacto Complainant made baseless allegations in the DV case that the Accused No.1 was in the habit of Drinking and Smoking even before marriage. Further the Defacto Complainant also made baseless allegations in the DV case that the Accused No.1 had a skin disease and was a TB patient before marriage. These allegations are defamatory in nature and is not supported by any medical reports or other documentary proof or eye witnesses from Prosecution in this case.

29. The Defacto Complainant admits in her deposition that she traveled to Bangkok, Thailand along with Accused No.1 for visiting purpose in May 2010 which is their first wedding anniversary, date of marriage being 06-May-2009. This indicates that the couple were having a wonderful time, spending their honeymoon happily together at Bangkok, Thailand without any alleged interference or influence from the Accused Nos.2-3.

30. It is evident from the deposition of the Defacto Complainant dated 04-Jun-2019 in the DV case, that the Accused Nos.2-3 allegedly visited Hyderabad in 2010 but the DV case was launched in 2017. Apart from laying vague allegations upon Accused Nos.2-3, the Defacto Complainant failed to establish any of her allegations on Accused Nos.2-3.

**NO EVIDENCE TO SUBSTANTIATE THE BASELESS ALLEGATIONS OF THE
DEFACTO COMPLAINANT AROUND DOWRY AGAINST ACCUSED NOS.1-3:**

31. That, from the deposition of the Defacto Complainant Dt: 21-Dec-2022, the Defacto Complainant admitted that, "*an amount of Rs.5,00,000/- was given as gift but not as a Dowry*" which, even if taken to be true for argument sake, is not a crime under any law of India. Additionally, the Defacto Complainant admitted that, "*My parents gave Rs.5,00,000/- before coming to Hyderabad for house hold articles*" which is again not a crime. Willful giving of money by In-laws to the daughter and/or son-in-law for purchase

of household articles to setup their new family is no crime under any known law of India, even if it is taken to be true for argument sake.

32. That, the entire Prosecution team, including the IO and the APP are totally oblivious to the Dowry (AP) Prohibition Rules, 1998¹¹ is crystal clear. Specifically, the Rules 5(c) and 10 lay a time limit of one year on Dowry related complaints and set a limit for their disposal on again one year. The government officials who are expected to know and adhere these Rules are ignorant of the same and brought a time-barred litigation to this Hon'ble Court and ran it from 2017 to 2023 thereby causing irreparable damage and loss to the Accused No.1. Similarly, this Hon'ble Court also failed to consider these facts mentioned in the Discharge petition, which are extracted from the prosecution documents itself.

33. That, the Defacto Complainant deposed that her parents gave Rs. 5 Lakhs to Accused No.1 for his London Trip even though the trip is an Onsite assignment sponsored by the Mahindra Satyam company for a period of 3-4 months on a Short-term UK Work Permit visa valid only for just 1 year. The Defacto Complainant did not aver any reasonable cause for Accused No.1 to demand any money from her or her parents. But the Defacto Complainant eventually deposed that she has not submitted any documentary evidence to show that her parents gave Rs.5 Lakhs to Accused No.1 for purpose of Job at London. The Defacto Complainant admitted during her deposition Dt: 21-Dec-2022 that, *"It is true that A1 went to London and America for job purpose"* indicating that the Accused No.1 went to do his job, for which his employers sent him on company expense. It is evident that the family of Defacto Complainant was poor and does not have sufficient income to be in a situation to support the Accused No.1 financially, even if necessity arises.

34. The Defacto Complainant admitted in the deposition dt: 04-Jun-2019 in the DV case, that the monthly rent for the homes initially at Pune and then at Hyderabad was paid by Accused No.1, even though there is no rental agreement between the flat owner and Accused No.1. The Defacto Complainant added that Accused No.1 also paid Flat Advance to the flat owner. Even in the deposition dt: 17-Jun-2019 in the DV case, the Defacto Complainant categorically deposed that she received money i.e., house rent from Accused No.1 even

¹¹ Dowry (AP) Prohibition Rules 1998,

Rule 5(c): **Complaint:** – 'Any complaint shall be made either on the demand of dowry or accepting dowry within a period of one year.'

Rule 10: **Time for settlement of disputes:** – Any offence under section 3 and section 4 or any dispute under section 6 of the Act shall be filed before expiry of one year and the same shall be finalized within two years from the date of filing.

when he was working in Tech Mahindra at Bengaluru. The Defacto Complainant never had/made any complaint that Accused No.1 forced her to pay rent for their home. The Defacto Complainant also admitted that Accused No.1 gave money to her family necessities/household expenses while he was working in Bengaluru. This is obviously through bank transfer from the HDFC Bank account of Accused No.1 to the Defacto Complainant's ICICI bank account. But subsequently, the Defacto Complainant contradicted herself and deposed that Accused No.1 gave her money only until 2015 and for 5 to 6 months in 2016 without specifically establishing this fact, by way of evidence of producing her ICICI savings bank account statement into this Hon'ble Court. This is a fact that needs to be established by the Prosecution, by way of documentary evidence as mandated by section 59 of Evidence Act 1872¹². Moreover, this document (Savings Account statement of the Defacto Complainant in the ICICI Bank) is/can only be in the possession or custody of the Defacto Complainant so the only way the Defacto Complainant should have established that the Accused No.1 allegedly did not pay her monthly amount is to bring said ICICI Savings bank account statement on record of this Hon'ble Court. Going by the record of this case or the disposed DV cases, there is no such document before this Hon'ble Court.

35. The Defacto Complainant made another improvement in her deposition that her parents gave Rs.20 Lakhs to her and with that money she purchased a flat in Bengaluru. This is a quite an improvement from what the Defacto Complainant mentioned in her complaint to Women Police Station, Ongole and her witness statement u/s 161 Cr.P.C. where she said the Accused No.1 demanded her Rs.20 Lakhs but she expressed her and her parent's inability to pay such huge amount. For the sake of comparison, this amount was said to be Rs.10 lakhs in the DV case testimony dt: 17-Jun-2019. This indicates that the Defacto Complainant can blurt out any meaningless incoherent assertions, even at the risk of damaging her case. Interestingly, this entire episode of purchasing a flat in Bengaluru is absent in the entire case docket of the DV case. The Defacto Complainant seems to have reached a stage where she no longer remembers what she is saying at what stage of the Criminal case and she has no control on her utterings. Moreover, the Defacto Complainant

¹² Evidence Act 1872 § 59 'All facts, except the contents of documents or electronic records, may be proved by oral evidence'

also failed to substantiate this allegation of demanding money, getting it and finally purchasing a flat. All these *ipse dixit* allegations are pulled from thin air by the Defacto Complainant and therefore, there is no truth in any of them.

36. The umpteen number of material improvements, willful concealments and embellishments done by the Defacto Complainant are amply covered under section 14 of Evidence Act¹³. The Defacto Complainant does not have any respect to the Oath she took before this Hon'ble Court and lied multiple times with impunity, in both the present criminal case u/s 498A IPC case as well as in the disposed DV case. The clear contradictory allegations in 498A and DVC are visible to naked eye such as her allegation that the Accused No.1 will run away from India is missing in DV case and her allegation that the purchase and Sale of flats in Ongole is missing in this current case. This indicates that the Defacto Complainant is quite capable of cooking false narratives and twist and turn non-existent events as per her choice and convenient for her benefit.
37. That the Defacto Complainant narrated a story in the DV case that the Accused No.1 never made any payments towards the installments of some loans for which there is no documentary evidence on record in this Hon'ble Court. Furthermore, the Defacto Complainant failed miserably to prove the fact that there were indeed some loans taken from SBI Bank in the first place to even consider her subsequent allegations. The Defacto Complainant failed to bring on record any documentary proof that there was a purchase of flat, taking of 2 Home loans from SBI Ongole, subsequent sale of said flats, Accused No.1 taking away the sale proceedings. All the allegations around purchase of flats at Ongole or Bengaluru is a total white lie and only a cooked-up story by the Defacto Complainant only for purpose of these motivated Criminal cases against Accused No.1. As per section 59 of Evidence Act 1872, the purchase and sale of said flats and taking loans from SBI bank are such facts that cannot be proven by oral evidence of the Defacto Complainant, but they have to be proven by way of documentary evidence. In the face of not proving of taking of Bank Loans from SBI and purchase and sale of said flats, there is no truth to purchase of flats be it at Ongole in 2010 or at Bengaluru in/after 2014. Alternatively, the Defacto Complainant has failed to bring forth these documentary evidence, because the said transactions may be registered for below-market-value and is worried that their illegal

¹³ Evidence Act 1872 § 14 'Facts showing existence of state of mind, or of body of bodily feeling.'

transactions may be exposed in this case proceedings. It is to be noted that, the Defacto Complainant conveniently forgot to make this same allegation in the DV case for the single reason that, such baseless allegations may attract economic abuse in a DV case but are not of much use in the present Criminal case. This indicates that the Defacto Complainant carefully picked and chose her allegations by case type and made a calculated move against the Accused No.1 and his parents.

38. That, as is evident from examination-in-chief and deposition of the Defacto Complainant that she did not bring on record of the case, any of her properties, either in her name or her parents/family to substantiate her allegation that Accused No.1 laid a trap on the Defacto Complainant to enrich himself. The financial state of the Defacto Complainant or her family is pathetically nowhere near to purchasing even a single property, since none in her family has any valid credit history for any bank to trust them and extend any loans. It is also admitted by the Defacto Complainant that her brother uses her Credit cards as no bank gives credit cards to someone with no credit history and healthy salary/income. The family of Defacto Complainant do not have any credit-worthiness to get any loans themselves.

NO REASONABLE CAUSES FOR THE DEFACTO COMPLAINANT TO SIT IDLE AT ONGOLE AND BECOMING A USELESS BURDEN ON HER OWN FAMILY:

39. That the Defacto Complainant deposed that she is a native of Ongole, a well-educated person with an Educational Qualification of M.Sc. specializing in Bio-Technology in 2003 itself, from Muttayammal College, affiliated to Periyar University in Tamil Nadu and one who had worked as Software Engineer in Pune for about a year and then subsequently has worked for a Web Radio Channel by name TeluguNRIRadio for over 1 year and anchored a Talk Show by name 'Allare Allari' completing 250 episodes and most importantly, of sound health and mind. It is admitted that Defacto Complainant's parents know that she works in that web channel. It is also admitted by the Defacto Complainant that she has given dubbing services to various daily television serials and commercials. Despite this admitted employment position, the Defacto Complainant has not alleged any specific instances/events of cruelty committed upon her by Accused No.1. It is pertinent to note that the Defacto Complainant admitted that by the time of filing present case, she was residing at Hyderabad and the Accused No.1 was living and working at Bengaluru since June 2013 and the Defacto Complainant admitted that she has never met the Accused No.1

in the intermittent time period anywhere. It is evident that the Defacto Complainant has a sound and flourishing career as an artist in multiple entertainment fields at Hyderabad earning lakhs of rupees into her bank account, all the while skipping Court dates at Ongole.

40. The Defacto Complainant also admitted in the DV case that, she received money from Accused No.1 even when he was working at Bengaluru, in her ICICI Bank Savings Account via Net banking to the tune of Rs.25,000/- on a monthly basis. The Defacto Complainant deposed that she does not know who deposited Rs.1,69,232/- into her account in March 2017, but she did not deny the credit of the said amount though. This amount/transaction is just one of the many large sums received by the Defacto Complainant in her ICICI Bank Savings Account. It is also pertinent to note that this very same ICICI Savings Bank account was intentionally closed by the Defacto Complainant on 18-Mar-2017, just 3 weeks before launching false criminal litigation against the Accused Nos.1-3. The Defacto Complainant withdrew all the remaining funds in that account, the last two withdrawals being for Rs.30000/- and Rs.25000/- dt: on 18-Mar-2017. It is pertinent to note that this ICICI Bank Savings Account was opened by the Defacto Complainant in 2008 as a Zero-balance Salary account when she worked with Zensar Technologies, opened on 04-Sep-2008 in Bhandarkar Road Branch of ICICI, Pune. The Defacto Complainant also admitted that she holds a Credit card issue by SBI Cards and Payment Services Private Limited with No. 4335-8778-6534-4179 with a credit limit of 10.35 Lakhs, in addition to ICICI Credit card with No. 4629-8642-1938-1003 which was issued in 2008, with a credit limit of 4.96 Lakhs. It is common knowledge that Scheduled Banks and Private Banks such as SBI Bank and ICICI Bank do not give credit cards to every random person who applies for a credit card. They do a thorough background checks and proof of employment or income before issuing a Credit card. But going by the examination and deposition of the Defacto Complainant, she is a jobless person for very many years and have no income at all and is allegedly relying and living upon the money given by Accused No.1 and her parents. There is no way Banks and Credit card companies issue credit cards to such a person as Defacto Complainant who have no income because she is not a person who is in a position to repay any Credit she obtains from these banks. The Defacto Complainant surely must have shown a minimum of three times income to these banks, for them to give Credit line to the Defacto Complainant. These acts of the Defacto Complainant clearly

indicate a conspiracy by the Defacto Complainant to hatch a plan to lodge a manufactured various Criminal and Civil cases at Ongole, by tampering with material evidence, presumably upon taking legal advice, which includes taking steps such as:

- a) closing off her ICICI Salary/Savings Bank Account, opened in year 2008.
- b) establish a self-serving *ipse dixit* narrative that she relocated to Ongole from Hyderabad, whereas the evidence on record proves that the Defacto Complainant continues to live at her Hyderabad home at Krishna Nagar, Hyderabad till date and as also admitted by the Defacto Complainant that she still uses the same Bharat gas connection and has not disconnected the same.
- c) lodging a fabricated DV case against all the Accused Nos.1-3, falsely implicating Accused Nos.2-3 along with Accused No.1 which was partly-allowed and the Order is under appeal before the competent Court, Ongole.
- d) brings absolutely no evidence before this Hon'ble Court to corroborate her *ipse dixit* statements on any of her allegations

NO EVIDENCE TO SUBSTANTIATE THE OMNIBUS ALLEGATIONS OF TAKING AWAY OF GOLD JEWELRY OF THE DEFACTO COMPLAINANT BY THE ACCUSED NO.1:

41. That, the Defacto Complainant/PW-1 categorically admitted in her complaint and her 161 Cr.P.C. statements that her parents gave gold jewelry worth Rs.5 lakhs to Accused No.1 during the marriage at Tirupati, as Dowry. But the Defacto Complainant deposed during her Cross Examination that the alleged non-existent gold jewelry was presented as gifts to Accused No.1 but not as Dowry. It is obvious that, the Defacto Complainant took this U-turn/eStoppel, because she realized (or made realized by her legal team!) that if the said allegation is continued as Dowry, then her own parents will be liable for the crime of giving dowry, which is punishable under Sec 3 of Dowry Prohibition Act 1961. Moreover, the Defacto Complainant is prohibited to take such a reversal due to the eStoppel¹⁴ under Evidence Act. Hence there is change in the version of the Defacto Complainant when it came to giving of gold jewelry: ***From Dowry to Presents/gifts***. It is the law of the land that

¹⁴ Evidence Act 1872 § 31 Admissions not conclusive proof, but may estop.—Admissions are not conclusive proof of the matters admitted but they may operate as estoppels under the provisions hereinafter contained.

once presents/gifts are accepted by the receiver, the ownership of the said gifts is also transferred to Accused No.1, in this case. The parents of the Defacto Complainant have no right to seek the alleged non-existent golden jewelry from the Accused No.1, even if it is taken to be true for argument sake. Specifically, the Section 115 of Evidence Act¹⁵ provides that the Defacto Complainant may not be allowed to first state that her family committed the crime of giving-dowry under Oath during recording of Examination-in-Chief but then to state during cross examination that there was no dowry given to the Accused No.1 at all.

42. Furthermore, the PW-1 categorically admitted that Accused No.1 did not demand any gold ornaments but the parents of PW-1 presented the same as customary practice/purpose. As is evident from the record of the case before this Hon'ble Court, that the Defacto Complainant did not produce any list of presents as mandated under ***Rule 2 of 'Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985'***¹⁶. Just making a random allegation does not support the fake case of the Defacto Complainant, especially when such list is not produced before this Hon'ble Court and is not supported by proof of purchase and proof of handing over said Jewelry to Accused No.1. This brings the issue to a conclusion that there were no Jewelry at all that were given to Accused No.1 and more importantly, there was no demand of whatsoever nature, during the marriage at Tirupati, from First Accused Nos.1-3 or after marriage. The Defacto Complainant already admitted that Accused Nos.2-3 were not present at Tirupati, during the wedding between the Defacto Complainant and the Accused No.1.

43. That, for every transaction/vague allegation that the Defacto Complainant makes, it can be noticed that there will be no legally admissible evidence but for each contradiction or concealment of the Defacto Complainant exposed by the Accused No.1 under Evidence Act, there is a clear Court-admissible evidence which the Defacto Complainant willfully admits/accepts in her deposition. The Defacto Complainant clearly relies only on her ipse dixit statements to win this false Criminal case.

NO EVIDENCE TO SUBSTANTIATE THE OMNIBUS ALLEGATIONS AGAINST ACCUSED NO.1 OF GIVING THREATS AND NOT CALLING/TALKING:

¹⁵ Evidence Act 1872 § 115. Estoppel.—When one person has, by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing.

¹⁶ Rule 2 of Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985.

44. The Defacto Complainant failed to bring on record any evidence to prove that she was threatened by the Accused No.1 or that he stopped talking to her. She failed to bring on record her telephone or email records to prove such baseless allegations.

HUSBAND AND HIS PARENTS ARE THE REAL VICTIMS OF FALSE CASES:

45. The Defacto Complainant admitted that she got her first IT Industry job at Zensar Technologies, Pune on the reference and recommendation of Accused No.1 and her Designation in that company was Senior Software Engineer. The Defacto Complainant also deposed that after completing her Post Graduation in 2003, she worked as a Tele Caller and Quality Controller in 2004. It is only due to the intervention and reference of Accused No.1, the Defacto Complainant was able to get a high-paying job in IT industry, a major development, all the way from a Tele caller which she did for the purpose of pocket money.

46. The hypocrisy of the Defacto Complainant is amply demonstrated when she avers that she does not remember her own salary while working at Zensar Technologies, Pune but alleges that the salary of Accused No.1 was Rs.50,000/- to Rs.60,000/- per month.

47. The Defacto Complainant admitted that she lived with Accused No.1 at Pune, after her marriage. She also admitted that she relocated to Hyderabad a few days before Accused No.1. But the Defacto Complainant did not go to Bengaluru along with Accused No.1. Not just that but the Defacto Complainant categorically deposed that she never visited the Accused No.1 at Bengaluru even for a single day. It is also admitted by the Defacto Complainant that she has received money from Accused No.1. She also admittedly received Rs.25,000/- per month in cash, which was hand delivered by her brother at Hyderabad all the way from Ongole. This conduct of Defacto Complainant clearly indicates that, for reasons best known to her, she wants to continue to live in Hyderabad to pursue her ambition of dubbing artist and actor, but with the sponsoring money of Accused No.1, even though she does not have any friends or family living there at Hyderabad. This is effectively desertion of Accused No.1 by the Defacto Complainant. Since Accused No.1 is a male person and there is no law to voice his concerns and issues just like the Defacto Complainant has under DV Act or u/s 498A IPC, he is left without any civil or criminal remedy against such cruelty, desertion and neglect by the Defacto Complainant.

48. The Defacto Complainant has failed to bring clarity to the fact that why was she living at Hyderabad and not accompany her husband who was working at Bengaluru when she has

no job at Hyderabad from 2010 onwards, as she alleges that she never worked at Hyderabad and had no income and her parents are at Ongole. There is no evidence before this Hon'ble Court, that she ever expressed her desire to live with Accused No.1 at Bengaluru.

49. The Defacto Complainant has maliciously implicated Accused Nos.2-3 to sully and damage their reputation and integrity in the society that they live in and among their friends and family. The Accused Nos.2-3 were forced to appear before this Hon'ble Court irrespective of their health conditions or the difficulty in traveling 700 KMs per each trip to Ongole. No one in the society cares about the hassles faced by the accused people especially those who are non-locals and live far away from the venue of the Hon'ble Court. It is on record of this Hon'ble Court that the Defacto Complainant absented herself from great many Court appearances in this case, without any reasonable cause, despite claiming to be a permanent resident of Ongole. She could have taken a local auto to reach the Court, but she chose not to appear before the Court by filing fake absent petitions.

50. It is pertinent to note that the Defacto Complainant admitted that she married the Accused No.1 at Tirupati and then setup family with Accused No.1 at Pune and then lived with him at Hyderabad from 2009 to 2013, when in June 2013, the Accused No.1 alone moved to Bengaluru to join the Tech Mahindra company as Project Manager. In none of these places (Pune, Hyderabad and Bengaluru), the Defacto Complainant filed any cases against the Accused No.1. But after willfully living for 4 years separately away from the Accused No.1 from 2013 to 2017, the Defacto Complainant filed the matrimonial litigation against the Accused No.1 and his elderly parents Accused Nos.2-3 at Ongole in 2017, one after another, with a singular view to take complete advantage of her native place since her parents live there. When the Criminal complaint was filed in April 2017 and the DV case was filed in July 2017, the Accused No.1 was living separately away from the Defacto Complainant in Bengaluru, his elderly parents Accused Nos.2-3 were living at Anantapur and the Defacto Complainant herself was living at Hyderabad, as evidenced by the Closure of ICICI Bank account in March 2017 and also the continuation of Bharat gas connection. An overall view of the above facts indicate that the Defacto Complainant made elaborate scheme to implicate Accused Nos.1-3 in false litigation out of her vengeance. The decision of Supreme Court in *Rupali Devi Vs State of UP and Ors*¹⁷ [2019 SCC ONLINE SC 493

¹⁷ Judgment in Criminal Appeal No. 71 of 2012

= **2019 AIR SC 1790**] decided on 09-Apr-2019 does not help the Defacto Complainant because of the pre-condition laid down in Para 16 as follows:

*“16. We, therefore, hold that the courts at the place **where the wife takes shelter after leaving or driven away from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, would, dependent on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498A of the Indian Penal Code.**”*

(Emphasis provided)

51. The Defacto Complainant deposed that there was a conversation for mediation between the elders/parents of the Defacto Complainant and the Accused No.1 but does not remember when, where, how and who were involved in the said mediation. From the admission of the Defacto Complainant, she is already in receipt of Rs.25,000/- per month from the time Accused No.1 started working at Bengaluru which is from June 2013, which adds up to a total sum of Rs.12,00,000/- (Rs.25,000/- X 48 months) given to the Defacto Complainant, only towards her household expenses at Hyderabad. Given this fact situation, there is no occasion for Accused No.1 to ask/demand money from Defacto Complainant for any conceivable reasons.

52. The Accused No.1 suffered heavy loss of income from May 2018 onwards as he had to leave his well-paying job as Solution Architect with LnT Infotech, Bengaluru and focus on fighting the motivated litigation that the Defacto Complainant unleashed upon him and his elderly parents. Unlike the Defacto Complainant, who sat idling through most of her adult life doing nothing and becoming useless burden to her own family members, the Accused No.1 did not sit idle but studied Law funded by his savings money, from September 2018 as a full-time student and completed his LL.B. degree in August 2021, with a Second-class pass from Sri Krishnadevaraya University for the period 2018-2021. He supported himself during the entire 4 years from his savings amount without becoming a burden to his elderly parents. He enrolled with Bar Council of Andhra Pradesh on 17-Mar-2022 (Enrolment No. AP/646/2022) and started practicing at High Court. As already averred, the Accused No.1 has lost lot of income-generating opportunities within India and abroad, simply due to not having his passport in his custody. His passport has been in the Custody of this Hon'ble Court for the past 5 years, half of the period of its 10-year validity. Currently he has no sustainable & regular income on monthly basis.

53. It is submitted that the Defacto Complainant cannot be allowed to take advantage of her own wrong doings. On one hand, the Defacto Complainant clearly committed the offences

of Bigamy, Cheating, Defamation, Criminal Intimidation upon the Accused Nos.1-3 and also Perjury upon this Hon'ble Court and on the other hand cannot plead innocence and seek justice and equity. The Apex Court in the landmark case ***Dalip Singh Vs State of U.P. and others*** held that, “*who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final*”.¹⁸

CONCLUSION AND PRAYER:

The Defacto Complainant has failed miserably to prove that the Defacto Complainant obtained divorce from her first husband. Hence on this ground itself the instant case filed by the Defacto Complainant may be dismissed, imposing exemplary costs upon the Defacto Complainant. The Hon'ble Apex Court held as follows in a case, ***P Sivakumar and 2 Ors Vs State of Tamil Nadu***¹⁹ decided on 09 Feb 2023. Annexed same via a separate memo.

“7. Undisputedly, the marriage between the appellant No.1 and PW-1 has been found to be null and void. As such the conviction under Section 498-A IPC would not be sustainable in view of the judgment of this Court in the case Shivcharan Lal Verma's case supra. So far as the conviction under Sections 3 and 4 of the Dowry Prohibition Act is concerned, the learned trial Judge by an elaborate reasoning, arrived at after appreciation of evidence, has found that the prosecution has failed to prove the case beyond reasonable doubt. In an appeal/revision, the High court could have set aside the order of acquittal only if the findings as recorded by the trial Court were perverse or impossible.

8. We have perused the judgment of the learned trial Judge. We do not notice any perversity in the approach adopted by the learned trial Judge. The view taken by the trial Court also cannot said to be impossible.”

(Emphasis provided)

That this is a sheer misuse of the welfare statutes which is supposed to be boon to Indian women, who are genuinely subjected to cruelty. It is due to such misuse and abuse of benevolent laws, that the Hon'ble Supreme Court and many Hon'ble High Courts in India, in many cases have held that the Courts should be cautious while adjudicating cases under this section 498A IPC. There is a duty cast on this Hon'ble Court therefore, to not allow the disgruntled women such as the Defacto Complainant to trample upon the rights of Accused Nos.1-3, just because they are women and they have right to abuse the due process of law, to the detriment of the society in general and men like Accused No.1 in particular. This blatant abuse of Process of Law results in wasting valuable time of this

¹⁸ Judgment dated 3 December, 2009 in Civil Appeal No. 5239 of 2002

¹⁹ Order dated 09 Feb 2023 in Criminal Appeal No. 1404-1405 of 2012

Hon'ble Court, especially when the Monthly Statistics of Pending Criminal cases pending before 3rd JCJ Court is at 1500, as per the report on dCourts website of Prakasam District, titled '*Court-wise Monthly Pending Cases information as on Feb, 2022*'.

The Accused No.1 relies on the *Dr. Buddhi Kota Subbarao Vs Mr. K.Parasaran and Ors*²⁰ which held as follows. Annexed same via a separate memo.

“The course adopted by the applicant is impermissible and his application is based on misconception of law and facts. No litigant has a right to unlimited drought on the court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be misused as a license to file misconceived or frivolous petitions.”

(Emphasis provided)

It is finally submitted that, it is on record of this case that, statutory principles were not at all followed/adhered to in this case while framing charges against the Accused Nos.1-3. The Charge framing order is a judicial order and it fails to adhere to sections 211 and 212 of Cr.P.C. by not recording the date/time and place, on/at which the dowry transaction happened to attract Section 3 of DP Act, the date/time and place on/at which the additional demand for dowry is made to attract Section 3 of DP Act, and the date/time and place on/at which the specific events contributing to Section 498A IPC offence happened. This is a gross violation of Sections 211(5) and 212(1) of Cr.P.C. and is not covered by Sections 213 and 215 of Cr.P.C.

Furthermore, despite submitting a relevant reportable landmark case law in *Kalicharan and Ors Vs State of Uttar Pradesh*²¹ decided on 14-Dec-2022 by the Hon'ble Apex Court, via a memo, which is relevant to the stage of section 313(5) Cr.P.C., this Hon'ble Court chose to ignore the said case law during the section 313 Cr.P.C. examination, which states in Para 22 as follows. Already submitted same to this Hon'ble Court, via a memo dt: 22-Feb-2023.

“22. ... Questioning an accused under Section 313 CrPC is not an empty formality. The requirement of Section 313 CrPC is that the accused must be explained the circumstances appearing in the evidence against him so that accused can offer an explanation. After an accused is questioned under Section 313 CrPC, he is entitled to take a call on the question of examining defence witnesses and leading other evidence. If the accused is not explained the important circumstances appearing against him in the evidence on which his conviction is sought to be based, the accused will not be in a position to explain the said circumstances brought on record against him. He will not be able to properly defend himself.”

²⁰ Judgment dated 13 Aug 1996 in CrI.M.P.No.3830 of 1996 in CrI.A.No.276, 277 of 1993

²¹ Judgment dated 14 Dec 2022 in Criminal Appeal No. 122 of 2021

(Emphasis provided)

Another recent reportable decision of the Apex Court in *Premchand Vs State of Maharashtra*²² held as follows in Para 16. Annexed same via a separate memo.

“16. Bearing the above well-settled principles in mind, every criminal court proceeding under clause (b) of sub-section (1) of section 313 has to shoulder the onerous responsibility of scanning the evidence after the prosecution closes its case, to trace the incriminating circumstances in the evidence against the accused and to prepare relevant questions to extend opportunity to the accused to explain any such circumstance in the evidence that could be used against him. Prior to the amendment of section 313 in 2009, the courts alone had to perform this task. Instances of interference with convictions by courts of appeal on the ground of failure of the trial court to frame relevant questions and to put the same to the accused were not rare. For toning up the criminal justice system and ensuring a fair and speedy trial, with emphasis on cutting down delays, the Parliament amended section 313 in 2009 and inserted sub-section (5), thereby enabling the court to take the assistance of the Public Prosecutor and Defence Counsel in preparing such questions [the first part of sub-section (5)]. Ideally, with such assistance (which has to be real and not sham to make the effort effective and meaningful), one would tend to believe that the courts probably are now better equipped to diligently prepare the relevant questions, lest there be any infirmity. However, judicial experience has shown that more often than not, the time and effort behind such an exercise put in by the trial court does not achieve the desired result. This is because either the accused elects to come forward with evasive denials or answers questions with stereotypes like ‘false’, ‘I don’t know’, ‘incorrect’, etc. Many a time, this does more harm than good to the cause of the accused. For instance, if facts within the special knowledge of the accused are not satisfactorily explained, that could be a factor against the accused. Though such factor by itself is not conclusive of guilt, it becomes relevant while considering the totality of the circumstances. A proper explanation of one’s conduct or a version different from the prosecution version, without being obliged to face cross-examination, could provide the necessary hint or clue for the court to have a different perspective and solve the problem before it. The exercise under section 313 instead of being ritualistic ought to be realistic in the sense that it should be the means for securing the ends of justice; instead of an aimless effort, the means towards the end should be purposeful. Indeed, it is optional for the accused to explain the circumstances put to him under section 313, but the safeguard provided by it and the valuable right that it envisions, if availed of or exercised, could prove decisive and have an effect on the final outcome, which would in effect promote utility of the exercise rather than its futility.

17. Once a written statement is filed by the accused under subsection (5) of section 313, Cr. P.C. and the court marks it as an exhibit, such statement must be treated as part of the accused’s statement under sub-section (1) read with sub-section (4) thereof. In view of the latter sub-section, the written statement has to be considered in the light of the evidence led by the prosecution to appreciate the truthfulness or otherwise of such case and the contents of such statement weighed with the probabilities of the case either in favour of the accused or against him.”

(Emphasis provided)

In the instant case it can be seen from the multiple proceedings initiated by the Defacto Complainant against the Accused No.1 and his parents in this Hon'ble Court, under

²² Judgment dated 03 Mar 2023 in Criminal Appeal No. 211 of 2023

Section 498A IPC in addition to the DV case, just to harass the Accused No.1 and his parents, to force Accused No.1 to agree to her illegal demands of money and authority.

WHEREFORE, it is prayed that this Hon'ble Court be pleased, on consideration of the case laws submitted via a separate memo, to dismiss the instant criminal case of Defacto Complainant filed under Sec 498A IPC and Sections 3 and 4 of DP Act, as the Defacto Complainant has approached this Hon'ble Court with unclean hands and suppressed as many material facts as possible for her and pass such other orders in favor of the Accused Nos.1-3, as this Hon'ble Court deems fit and proper, under the facts and circumstances of the case, in the interest of justice and equity.

Be pleased to consider

Place: Ongole
Dated: 20 - MAR - 2023

Accused No.1

**BEFORE THE HON'BLE III
JUNIOR CIVIL JUDGE COURT
AT ONGOLE, PRAKASAM
DISTRICT**

C. C. No. 220 of 2018

BETWEEN:

1. Sub-Inspector of Police, Women Police
Station, Ongole, Prakasam District Andhra
Pradesh. ... Complainant

2. Pamarati Anuradha
... Defacto Complainant

AND

1. Pamarati Sandeep Bhavan
2. Pamarathi Veerabhadra Rao
3. Pamarathi Saila Kumari
... Accused Nos.1-3

MEMO OF WRITTEN ARGUMENTS

FILED U/S 314(1) OF CR.P.C. ON

BEHALF OF ACCUSED, IN THE

INSTANT CAUSE/TITLE CASE

Filed on 20-Mar-2023

Filed By:

Sandeep Pamarati
(Accused No.1)